

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE: ACandS, Inc. Armstrong World Industries, Inc. Combustion Engineering, Inc. The Flintkote Company Kaiser Aluminum Corp. Owens Corning US Mineral Products Company USG Corp. W.R. Grace & Co. Debtors.	Case No. 02-12687 (Rel. Dkt. No. 3751) Case No. 00-4471 (Rel. Dkt. No. 10813) Case No. 03-10495 (Rel. Dkt. No. 3502) Case No. 04-11300 (Rel. Dkt. No. 9338) Case No. 02-10429 (Rel. Dkt. No. 10351) Case No. 00-3837 (Rel. Dkt. No. 21106) Case No. 01-2471 (Rel. Dkt. No. 4094) Case No. 01-2094 (Rel. Dkt. No. 12711) Case No. 01-1139 (Rel. Dkt. No. 32718)
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**MOTION OF THE NORTH AMERICAN REFRACTORIES COMPANY ASBESTOS
PERSONAL INJURY SETTLEMENT TRUST ADVISORY COMMITTEE TO
SHORTEN NOTICE ON ITS EMERGENCY MOTION TO (1) CONSOLIDATE AND
CONTINUE HEARINGS AND (2) APPOINT RULE 2019 EXPERT AND REFEREE**

The North American Refractories Company Asbestos Personal Injury Settlement Trust Advisory Committee (the “**NARCO TAC**”), by and through its undersigned counsel, hereby moves this Court for entry of an order (the “**Order**”), in substantially the form attached hereto as Exhibit A, shortening the notice period applicable to the Emergency Motion of the NARCO TAC to Consolidate and Continue Hearings and to Appoint Rule 2019 Expert and Referee (the “**Motion to Consolidate and Continue**”) so that the Motion to Consolidate and Continue may be heard at the earliest convenience of the Court, but prior to the hearings on the Motions of Honeywell International Inc. for Access to Rule 2019 Exhibits, and to Strike.

In support of this Motion, the NARCO TAC respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue of the above-captioned cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are Bankruptcy Rule 9006(c) and Local Rule 9006-1(e).

BACKGROUND

4. A discussion of the decade-long history of 2019 statements in asbestos cases is set forth in the NARCO TAC's opposition to the Motions.¹

5. There are currently three (3) separate hearings scheduled between August 15 and August 19, 2016 on the Motions of Honeywell International Inc. for Access to Rule 2019 Exhibits (the "**Honeywell Motions**")² and the related Joinders of Ford Motor Company (the "**Ford Joinders**")³ and a hearing on Honeywell's Motion to Strike is set for August 17 in two of the cases.

¹ See, e.g., Objection of the North American Refractories Company Asbestos Personal Injury Settlement Trust Advisory Committee to Honeywell's Motion for Access to Rule 2019 Exhibits, at 4-11, *In re ACandS*, No. 02-12687 (Bankr. D. Del. July 26, 2016) (D.I. 3762).

² Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re ACandS, Inc.*, No. 02-12687 (Bankr. D. Del. June 30, 2016) (D.I. 3751); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Armstrong World Indus., Inc.*, No. 00-04471 (Bankr. D. Del. June 30, 2016) (D.I. 10813); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Combustion Eng'g, Inc.*, No. 03-10495 (Bankr. D. Del. June 30, 2016) (D.I. 3502); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re The Flintkote Co.*, No. 04-11300 (Bankr. D. Del. June 30, 2016) (D.I. 9338); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Kaiser Aluminum Corp.*, No. 02-10429 (Bankr. D. Del. June 30, 2016) (D.I. 10351); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Owens Corning*, No. 00-03837 (Bankr. D. Del. June 30, 2016) (D.I. 21106); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re U.S. Mineral Prods. Co.*, No. 01-02471 (Bankr. D. Del. June 30, 2016) (D.I. 4094); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re USG Corp.*, No. 01-02094 (Bankr. D. Del. June 30, 2016) (D.I. 12711); Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re W.R. Grace & Co.*, No. 01-01139 (Bankr. D. Del. June 30, 2016) (D.I. 32718).

³ Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re ACandS, Inc.*, No. 02-12687 (Bankr. D. Del. July 5, 2016) (D.I. 3756);

CURRENT PROCEDURAL POSTURE

6. Honeywell and Ford filed the Honeywell Motions and Ford Joinders to obtain 2019 exhibits in nine separate bankruptcies before three different judges. The papers they filed in each case did not cross-reference each other or explain that the motions were part of a coordinated effort spanning multiple cases. Each was individually captioned. Three separate hearings have been set before Judges Gross, Walrath, and Carey between August 15 and August 19, 2016.

7. The NARCO TAC filed an objection to the Motions in the same cases on July 26, 2016. As with the Motions and Joinders, the objection is identical in each of the nine cases. Many other parties in interest filed joinders to that objection.

Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Armstrong World Indus., Inc.*, No. 00-04471 (Bankr. D. Del. July 6, 2016), (D.I. 10818); Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Combustion Eng'g, Inc.*, No. 03-10495 (Bankr. D. Del. July 6, 2016) (D.I. 3507); Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re The Flintkote Co.*, No. 04-11300 (Bankr. D. Del. July 6, 2016) (D.I. 9339); Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Kaiser Aluminum Corp.*, No. 02-10429 (Bankr. D. Del. July 6, 2016) (D.I. 10356); Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re Owens Corning*, No. 00-03837 (Bankr. D. Del. July 6, 2016) (D.I. 21112); Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re U.S. Mineral Prods. Co.*, No. 01-02471 (Bankr. D. Del. July 6, 2016) (D.I. 4099); Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re USG Corp.*, No. 01-02094 (Bankr. D. Del. July 6, 2016), (D.I. 12716); Joinder of Ford Motor Company to Motion of Honeywell International Inc. for Access to Rule 2019 Exhibits, *In re W.R. Grace & Co.*, No. 01-01139 (Bankr. D. Del. July 6, 2016) (D.I. 32724).

8. Honeywell filed a Motion to Strike the Objection of the NARCO TAC (the “**Honeywell Motion to Strike**”), and an *Ex Parte* Motion to Shorten Notice, seeking expedited briefing in each of the nine cases.⁴

RELIEF REQUESTED

9. By this Motion to Shorten, the NARCO TAC respectfully requests entry of the Order shortening the notice period so that the Motion to Consolidate and Continue may be heard at the earliest convenience of the Court, but prior to the hearings on the Motions of Honeywell International Inc. for Access to Rule 2019 Exhibits, and to Strike.

BASIS FOR RELIEF

10. Pursuant to Local Rule 9006-1(c), parties are required to provide at least twenty one (21) days notice of all motions served by first class mail, unless the Court approves a shortened notice period.

11. Pursuant to Bankruptcy Rule 9006(c)(1), the court may, for cause shown, shorten the otherwise applicable notice period. Local Rule 9006-1(e) provides that the Court may shorten the notice period “on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.” Del Bankr. L. R. 9006-1(e); *see also* Fed R. Bankr. P. 9006(c)(1) (“[T]he court for cause shown may in its discretion with or without motion or notice order the [notice] period reduced.”).

12. In these cases, the facts surrounding the Honeywell Motions, the Ford Joinders, NARCO TAC’s objection, the Honeywell Motion to Strike, and the Motion to Consolidate and Continue justify shortening the notice, as the parties in interest have taken advantage of the opportunity to weigh in on this dispute.

⁴ See, e.g., Motion of Honeywell International Inc. to Strike Objection of the North American Refractories Company Asbestos Personal Injury Settlement Trust Advisory Committee, *In re ACandS*, No. 02-12687 (Bankr. D. Del. Aug. 3, 2016) (D.I. 3772).

13. Pursuant to Bankruptcy Rule 9006(c) and Local Rule 9006-1(e), cause exists to shorten the notice period.

14. The NARCO TAC request that the Court fix an appropriate response deadline to allow parties time to respond to the Motion to Consolidate and Continue prior to the hearing.

15. Pursuant to Local Rule 9006-1(e), the Court may rule on this Motion to Shorten without the need for a hearing.

CONCLUSION

For the foregoing reasons, the NARCO TAC respectfully requests that the Motion to Shorten be granted.

Dated: August 4, 2016

Respectfully submitted,

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